

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OBADIAH D. LOMALYNDA,

No. C 08-05056 CW (PR)

Plaintiff,

ORDER REGARDING IN FORMA
PAUPERIS MOTION

v.

SGT. JIMENEZ, et al.,

Defendants.

Plaintiff, a state prisoner, filed this pro se civil rights action under 42 U.S.C. § 1983. On that same date, the Clerk of the Court sent Plaintiff a notice directing him to pay the filing fee or to file a completed in forma pauperis (IFP) application.

Plaintiff filed a completed IFP application; however, Plaintiff did not file copies of the Certificate of Funds and prisoner trust account statement.

Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he submits an affidavit that he is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the action, obtained from the appropriate official of each prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court determines that the plaintiff is unable to pay the full filing fee

1 at the time of filing, the plaintiff will be granted leave to
2 proceed IFP. This means that the filing fee must be paid by way of
3 an installment plan, according to which the court first will assess
4 and collect a partial filing fee from the prisoner, and then the
5 prisoner will be required to make monthly payments of twenty
6 percent of the preceding month's income credited to the prisoner's
7 account until the full \$350.00 filing fee is paid. Id.
8 § 1915(b)(1). The agency having custody of the prisoner is
9 responsible for forwarding to the court payments from the
10 prisoner's account each time the amount in the account exceeds ten
11 dollars. See id.

12 Therefore, before the Court will proceed to review the
13 complaint Plaintiff is hereby ORDERED to file copies of the
14 Certificate of Funds and prisoner trust account statement.
15 Plaintiff shall do so within thirty (30) days of the date of this
16 Order.

17 Failure to file copies of Plaintiff's Certificate of Funds and
18 prisoner trust account statement as ordered herein by the thirty-
19 day deadline shall result in the dismissal of this action without
20 prejudice.

21 IT IS SO ORDERED.

22 Dated: 1/13/09



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

OBADIAH D LOMALYNDA et al,

Case Number: CV08-05056 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

JIMENEZ et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 13, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Obadiah Dartagnan Lomalynda T-40894
San Quentin State Prison
San Quentin, CA 94974

Dated: January 13, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California